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Ontario. Labour Court

Summary of the
activities...June 14, 1943
to Dec. 31, 1943.



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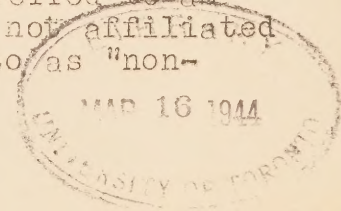
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0588sSUMMARY OF THE ACTIVITIES OF THE LABOUR COURT,
JUNE 14, 1943 to DECEMBER 31, 1943
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22.3.44Compiled by Jacob E. Elnkelman, Registrar of
the Labour Court

I. Although The Collective Bargaining Act, 1943, came into effect on April 14, 1943, the Labour Court did not begin to function until June 14, 1943, when The Judicature Amendment Act, 1943, came into operation. This summary of the activities of the Court covers the period from June 14 to December 31, 1943 inclusive, during which period 130 applications were made to the Court. All applications have been made by collective bargaining agencies; no application has been made by an employer pursuant to section 13 (2) of the Act.¹ 129 applications, involving approximately 80,000 persons,² requested certification. In one of these applications, affecting 69 persons, the applicant raised the additional issue of collective bargaining, and in one case the applicant charged discrimination against one person in addition to its request for certification. In one application, the applicant charged discrimination in respect to 290 persons. 75 of the applications were made by collective bargaining agencies affiliated with one or other of the two major labour organizations in Canada, namely, The Trades and Labour Congress of Canada and The Canadian Congress of Labour, and 55 applications were initiated by agencies not affiliated with either of the major labour organizations.³

¹ Section 13 of The Collective Bargaining Act provides that an application for certification may be made by an employer only "where a bona fide dispute exists between an employer and a collective bargaining agency or between two or more collective bargaining agencies as to which collective bargaining agency is entitled to certification".

² Throughout this summary, the number of persons has been given in round numbers.

³ Throughout this summary, for convenience, bargaining agencies affiliated with the major labour organizations will be referred to as "affiliated bargaining agencies", and bargaining agencies not affiliated with the two major labour organizations will be referred to as "non-affiliated bargaining agencies".



II. The Court sat on 92 days and dealt in whole or in part with 86 applications, 69 of which have been completed. In so far as the uncompleted cases are concerned, votes had been taken in 8 cases before the end of the year and votes were pending in 3 cases; judgment has been reserved in 3 cases and 3 cases have been adjourned, one until after February 1st, one until February 7th and one sine die. Since the 1st of January, 1944, judgment has been delivered in 2 of the 3 reserved cases. Notice of discontinuance has been filed in one case and counsel have intimated that similar notices will be filed in connection with one or two other proceedings.

III. 64 bargaining agencies have been certified in connection with applications affecting approximately 31,000 persons. 32 of the bargaining agencies certified are affiliated with one or other of the two major labour organizations and 32 of the certified bargaining agencies are not so affiliated. The number of persons affected by proceedings in which affiliated bargaining agencies have been certified is approximately 18,000, as compared with 13,000 persons affected by proceedings in which non-affiliated bargaining agencies have been certified. In addition, affiliated bargaining agencies have obtained majorities in 8 cases in which votes have been held but which have not been finally disposed of before the end of 1943. The number of persons affected by these proceedings is approximately 15,000.⁴

IV. Of the applications made to the Court for certification, 96 have been opposed and 33 have been unopposed.⁵ Of the applications

⁴ Since the beginning of the year, the Court has directed the holding of a new vote in one of these cases, affecting approximately 900 persons.

⁵ For the purposes of this summary an application has been treated as opposed if either an employer or a collective bargaining agency other than the applicant has taken any part in the proceedings. Although the validity of such a test may be open to question in some cases, it is difficult to establish any other basis of differentiation in this regard.

which have been opposed, 69 have been initiated by affiliated bargaining agencies and 27 by unaffiliated bargaining agencies. Of the applications in which there has been no opposition, 6 were initiated by affiliated bargaining agencies and 29 by unaffiliated bargaining agencies. In 55 cases there has been opposition between affiliated and unaffiliated bargaining agencies. In 8 of these, certification has been granted to an unaffiliated bargaining agency, 6 following a vote of the employees and 2 without a vote.

V. Votes have been held either by direction of the Court or by consent of the parties in 33 cases. Out of a total of approximately 27,000 eligible voters 24,000, or 89%, exercised their right to vote. It is interesting to note that only about one-half of one per cent of the ballots cast were improperly marked. Three types of ballots have been used in these votes: Type #1 - offering a choice between two bargaining agencies (5 cases); Type #2 - offering a choice between a named bargaining agency and no bargaining agency (12 cases); and Type #3 - a choice between one named bargaining agency, a second named bargaining agency and no bargaining agency (16 cases).

In the votes where the first type of ballot was used, three cases involved jurisdictional disputes between unions affiliated with the major labour organizations in Canada. The number of eligible voters in these cases was 1,762. The number of votes cast for bargaining agencies affiliated with The Trades and Labour Congress of Canada was 417, and the number of votes cast for agencies affiliated with the Canadian Congress of Labour was 863. In the other two cases in which this type of ballot was used, there were 1,823 eligible voters, 1120 of whom voted in favour of affiliated bargaining agencies.

and 518 voted in favour of non-affiliated bargaining agencies.

Of the 12 cases in which Type #2 ballot was used, the choice was in every instance between an affiliated bargaining agency and no bargaining agency. There has been no case in which the Court has ordered a vote to determine the wishes of the employees as between a non-affiliated bargaining agency and no bargaining agency. The number of eligible voters in cases in which Type #2 ballot was used was 5,959, of whom 4,542 cast their votes in favour of affiliated agencies and 1,397 marked their ballots as opposed to the bargaining agency involved.

In the 16 cases involving Type #3 ballot, there were 17,165 eligible voters, of whom 10,039 cast their votes in favour of affiliated agencies, 3,491 cast their votes in favour of non-affiliated agencies and 1,088 persons marked their ballots as opposed to the two named agencies on the ballot.

564

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